

# HOUSE BILL No. 1299

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 5-2; IC 33-37-7-2.

**Synopsis:** Sexual assault and domestic violence. Repeals the sexual assault victim advocate standards and certification board. Creates the domestic violence and sexual assault prevention and treatment council (council). Provides that the council shall: (1) administer the sexual assault victims assistance account; (2) coordinate and monitor programs for state and federal funding concerning sexual assault, domestic violence and family violence prevention; and (3) make recommendations to the board of trustees of the criminal justice institute concerning certain grants or contracts involving sexual assault, domestic violence, and family violence prevention. Makes appropriations to the domestic violence prevention and treatment fund and the sexual assault victim's assistance account.

**Effective:** Upon passage.

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**Olthoff**

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January 13, 2015, read first time and referred to Committee on Family, Children and Human Affairs.

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First Regular Session of the 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

## HOUSE BILL No. 1299

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A BILL FOR AN ACT to amend the Indiana Code concerning human services and to make an appropriation.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1       SECTION 1. IC 5-2-6-23, AS AMENDED BY P.L.1-2009,  
2       SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3       UPON PASSAGE]: Sec. 23. (a) ~~As used in this section, "board" refers~~  
4       ~~to the sexual assault victim advocate standards and certification board~~  
5       ~~established by subsection (c):~~  
6       **(b) (a)** As used in this section, "rape crisis center" means an  
7       organization that provides a full continuum of services, including  
8       hotlines, victim advocacy, and support services from the onset of the  
9       need for services through the completion of healing, to victims of  
10      sexual assault.  
11      **(c)** ~~The sexual assault victim advocate standards and certification~~  
12      ~~board is established. The board consists of the following twelve (12)~~  
13      ~~members appointed by the governor:~~  
14      **(1)** ~~A member recommended by the prosecuting attorneys council~~  
15      ~~of Indiana.~~



(2) A member from law enforcement.

(3) A member representing a rape crisis center.

(4) A member recommended by the Indiana Coalition Against Sexual Assault.

(5) A member representing mental health professionals.

(6) A member representing hospital administration.

(7) A member who is a health care professional (as defined in IC 16-27-1-1) qualified in forensic evidence collection and recommended by the Indiana chapter of the International Association of Forensic Nurses.

(8) A member who is an employee of the Indiana criminal justice institute.

(9) A member who is a survivor of sexual violence.

(10) A member who is a physician (as defined in IC 25-22.5-1-1.1) with experience in examining sexually abused children.

(11) A member who is an employee of the office of the secretary of family and social services.

(12) A member who is an employee of the state department of health, office of women's health.

(d) Members of the board serve a four (4) year term. Not more than seven (7) members appointed under this subsection may be of the same political party.

(e) The board shall meet at the call of the chairperson. Seven (7) members of the board constitute a quorum. The affirmative vote of at least seven (7) members of the board is required for the board to take any official action.

(f) The board shall:

(1) develop standards for certification as a sexual assault victim advocate;

(2) set fees that cover the costs for the certification process;

(3) adopt rules under IC 4-22-2 to implement this section;

(4) administer the sexual assault victims assistance account established by subsection (h); and

(5) certify sexual assault victim advocates to provide advocacy services.

(g) Members of the board may not receive a salary per diem. Members of the board are entitled to receive reimbursement for mileage for attendance at meetings. Any other funding for the board is paid at the discretion of the director of the office of management and budget.

(h) (b) The sexual assault victims assistance account is established



1 within the state general fund. The ~~board~~ **domestic violence and sexual**  
 2 **assault prevention and treatment council established by**  
 3 **IC 5-2-6.6-3 (referred to in this section as "the council")** shall  
 4 administer the account to provide financial assistance to rape crisis  
 5 centers. ~~Money in the account must be distributed to a statewide~~  
 6 ~~nonprofit sexual assault coalition as designated by the federal Centers~~  
 7 ~~for Disease Control and Prevention under 42 U.S.C. 280 et seq.~~ The  
 8 account consists of:

- 9 (1) amounts transferred to the account from sexual assault victims  
 10 assistance fees collected under IC 33-37-5-23;  
 11 (2) appropriations to the account from other sources;  
 12 (3) fees collected for certification by the ~~board~~; **council**;  
 13 (4) grants, gifts, and donations intended for deposit in the  
 14 account; and  
 15 (5) interest accruing from the money in the account.

16 ~~(j)~~ **(c)** The expenses of administering the account shall be paid from  
 17 money in the account. The ~~board~~ **council** shall designate not more than  
 18 ten percent (10%) of the appropriation made each year to ~~the nonprofit~~  
 19 ~~corporation~~ for program administration. ~~The board may not use more~~  
 20 ~~than ten percent (10%) of the money collected from certification fees~~  
 21 ~~to administer the certification program.~~

22 ~~(j)~~ **(d)** The treasurer of state shall invest the money in the account  
 23 not currently needed to meet the obligations of the account in the same  
 24 manner as other public money may be invested.

25 ~~(k)~~ **(e)** Money in the account at the end of a state fiscal year does not  
 26 revert to the state general fund.

27 ~~(f)~~ **(f)** The governor shall appoint a member of the commission each  
 28 year to serve a one (1) year term as chairperson of the ~~board~~; **council**.

29 SECTION 2. IC 5-2-6.6-1, AS ADDED BY P.L.130-2009,  
 30 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 31 UPON PASSAGE]: Sec. 1. As used in this chapter, "council" refers to  
 32 the domestic violence **and sexual assault** prevention and treatment  
 33 council established by section 3 of this chapter.

34 SECTION 3. IC 5-2-6.6-3, AS ADDED BY P.L.130-2009,  
 35 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 36 UPON PASSAGE]: Sec. 3. (a) The domestic violence **and sexual**  
 37 **assault** prevention and treatment council is established within the  
 38 division.

39 (b) The division shall provide staff support to the council.

40 SECTION 4. IC 5-2-6.6-4, AS ADDED BY P.L.130-2009,  
 41 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 42 UPON PASSAGE]: Sec. 4. The council consists of ~~thirteen (13)~~



**fourteen (14)** members appointed by the governor. Each member must have experience and knowledge with regard to the problems of domestic violence **or sexual assault**. The members must include the following:

- (1) A domestic violence services provider.
- (2) A survivor of domestic violence.
- (3) A member recommended by the Indiana Coalition Against Domestic Violence.
- ~~(4) A member recommended by the Indiana Coalition Against Sexual Assault.~~
- ~~(5)~~ (4) A law enforcement officer.
- ~~(6)~~ (5) A member ~~recommended by~~ of the prosecuting attorneys council of Indiana.
- ~~(7)~~ (6) A mental health professional.
- ~~(8) A medical professional.~~
- ~~(9)~~ (7) A provider of services to children who are victims of abuse or neglect.
- ~~(10) A representative of a certified batterers intervention program.~~
- ~~(11)~~ (8) A faculty member of an accredited college or university.
- ~~(12)~~ (9) A member ~~recommended by~~ of the Latino Coalition Against Domestic and Sexual Violence.
- ~~(13)~~ (10) A member ~~recommended by~~ of the public defender council of Indiana.
- (11) A rape crisis provider.
- (12) A member of the Indiana chapter of the International Association of Forensic Nurses who is:
  - (A) a health care professional, as defined in IC 16-27-1-1; and
  - (B) qualified in forensic evidence collection.
- (13) A survivor of sexual violence.
- (14) A physician, as defined in IC 25-22.5-1-1.1(g).

SECTION 5. IC 5-2-6.6-8, AS ADDED BY P.L.130-2009, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. Each member of the council **shall serve without compensation and** is entitled to ~~the following~~:

- ~~(1) The minimum salary per diem provided in IC 4-10-11-2.1(b).~~
- (2) reimbursement for traveling expenses and other expenses as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

SECTION 6. IC 5-2-6.6-9, AS ADDED BY P.L.130-2009, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



UPON PASSAGE]: Sec. 9. **(a)** The governor shall designate one (1) member to preside over the initial meeting of the council each year.

**(b)** At the first meeting of the council each year, members shall elect a chairperson for the subsequent twelve (12) month period.

**(c) The council shall meet at least four (4) times per year at the call of the chairperson.**

SECTION 7. IC 5-2-6.6-10, AS ADDED BY P.L.130-2009, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. The council shall do the following:

(1) Coordinate and monitor programs for:

**(A)** the domestic violence prevention and treatment fund under IC 5-2-6.7;

**(B)** the sexual assault victims assistance account under IC 5-2-6-23(h);

**(C)** the sexual assault services program funding provided to Indiana under 42 U.S.C. 14043g;

**(D)** Family Violence Prevention and Service Act funding provided to Indiana under 42 U.S.C. 10401;

**(E)** Social Services Block Grant funding provided to the state and as allocated to the authority of the department of child services for domestic violence; and

**(F)** sexual offense services funding provided to the state by the federal Centers for Disease Control and Prevention.

(2) Develop and implement a state plan to provide services for the prevention and treatment of domestic violence **and sexual assault.**

(3) Review and recommend to the ~~division~~ **the board of trustees of the criminal justice institute** the approval or disapproval of grants or contracts ~~in accordance with IC 5-2-6.7.~~ **concerning:**

**(A)** the domestic violence and treatment fund under IC 5-2-6.7;

**(B)** the sexual assault victims assistance account under IC 5-2-6-23(h);

**(C)** the sexual assault services program funding provided to Indiana under 42 U.S.C. 14043g;

**(D)** Family Violence Prevention and Service Act funding provided to Indiana under 42 U.S.C. 10401;

**(E)** Social Services Block Grant funding provided to the state and as allocated to the authority of the department of child services for domestic violence; and

**(F)** sexual offense services funding provided to the state by the federal Centers for Disease Control and Prevention.



(4) ~~Develop and recommend a plan to coordinate funding of domestic violence and sexual assault programs.~~

(5) (4) Recommend to the division rules to be adopted by the division under IC 4-22-2 to carry out this chapter.

SECTION 8. IC 5-2-6.7-2, AS ADDED BY P.L.130-2009, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this chapter, "domestic violence prevention and treatment center" means an organized entity:

(1) established by:

(A) a city, town, county, or township; or

(B) an entity exempted from the gross retail tax under IC 6-2.5-5-21(b)(1)(B); and

(2) ~~created~~ **whose primary purpose is** to provide services to prevent and treat domestic or family violence.

SECTION 9. IC 5-2-6.7-11, AS ADDED BY P.L.130-2009, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. The division may use money from the fund when awarding a grant or entering into a contract under this chapter if the money is used for the support of a program designed to do any of the following:

(1) Establish or maintain a domestic violence prevention and treatment center offering the services listed in section 12 of this chapter.

(2) Develop and establish a training program for professional, paraprofessional, and volunteer personnel who are engaged in areas related to the problems of domestic violence.

(3) Conduct research necessary to develop and implement **a state plan to provide** programs for the prevention and treatment of domestic violence.

(4) Develop and implement other means for the prevention and treatment of domestic violence.

SECTION 10. IC 33-37-7-2, AS AMENDED BY P.L.284-2013, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The clerk of a circuit court shall distribute semiannually to the auditor of state as the state share for deposit in the homeowner protection unit account established by IC 4-6-12-9 one hundred percent (100%) of the automated record keeping fees collected under IC 33-37-5-21 with respect to actions resulting in the accused person entering into a pretrial diversion program agreement under IC 33-39-1-8 or a deferral program agreement under IC 34-28-5-1 and for deposit in the state general fund seventy percent (70%) of the amount of fees collected under the



following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-3(a) (juvenile costs fees).
- (4) IC 33-37-4-4(a) (civil costs fees).
- (5) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
- (6) IC 33-37-4-7(a) (probate costs fees).
- (7) IC 33-37-5-17 (deferred prosecution fees).

(b) The clerk of a circuit court shall distribute semiannually to the auditor of state for deposit in the state user fee fund established in IC 33-37-9-2 the following:

- (1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).
- (2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
- (3) One hundred percent (100%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7).
- (4) One hundred percent (100%) of the domestic violence prevention and treatment fees collected under IC 33-37-4-1(b)(8).
- (5) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).
- (6) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.
- (7) The following:
  - (A) For a county operating under the state's automated judicial system, one hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21) not distributed under subsection (a).
  - (B) This clause applies before July 1, 2013, and after June 30, 2015. For a county not operating under the state's automated judicial system, eighty percent (80%) of the automated record keeping fee (IC 33-37-5-21) not distributed under subsection (a).
  - (C) This clause applies after June 30, 2013, and before July 1, 2015. For a county not operating under the state's automated judicial system, five dollars (\$5) of the automated record keeping fee (IC 33-37-5-21) not distributed under subsection (a).

(c) The clerk of a circuit court shall distribute monthly to the county auditor the following:





(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(d) The clerk of a circuit court shall distribute monthly to the county auditor one hundred percent (100%) of the late payment fees collected under IC 33-37-5-22. The county auditor shall deposit fees distributed by a clerk under this subsection as follows:

(1) If directed to do so by an ordinance adopted by the county fiscal body, the county auditor shall deposit forty percent (40%) of the fees in the clerk's record perpetuation fund established under IC 33-37-5-2 and sixty percent (60%) of the fees in the county general fund.

(2) If the county fiscal body has not adopted an ordinance described in subdivision (1), the county auditor shall deposit all the fees in the county general fund.

(e) The clerk of the circuit court shall distribute semiannually to the auditor of state for deposit in the sexual assault victims assistance account established by ~~IC 5-2-6-23(h)~~ **IC 5-2-6-23(b)** one hundred percent (100%) of the sexual assault victims assistance fees collected under IC 33-37-5-23.

(f) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) One hundred percent (100%) of the support and maintenance fees for cases designated as non-Title IV-D child support cases in the Indiana support enforcement tracking system (ISETS) or the successor statewide automated support enforcement system collected under IC 33-37-5-6.

(2) The percentage share of the support and maintenance fees for cases designated as Title IV-D child support cases in ISETS or the successor statewide automated support enforcement system collected under IC 33-37-5-6 that is reimbursable to the county at the federal financial participation rate.

The county clerk shall distribute monthly to the department of child services the percentage share of the support and maintenance fees for cases designated as Title IV-D child support cases in ISETS, or the successor statewide automated support enforcement system, collected



under IC 33-37-5-6 that is not reimbursable to the county at the applicable federal financial participation rate.

(g) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) One hundred percent (100%) of the small claims service fee under IC 33-37-4-6(a)(1)(B) or IC 33-37-4-6(a)(2) for deposit in the county general fund.

(2) One hundred percent (100%) of the small claims garnishee service fee under IC 33-37-4-6(a)(1)(C) or IC 33-37-4-6(a)(3) for deposit in the county general fund.

(h) This subsection does not apply to court administration fees collected in small claims actions filed in a court described in IC 33-34. The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the following:

(1) The public defense administration fee collected under IC 33-37-5-21.2.

(2) The judicial salaries fees collected under IC 33-37-5-26.

(3) The DNA sample processing fees collected under IC 33-37-5-26.2.

(4) The court administration fees collected under IC 33-37-5-27.

(i) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the judicial branch insurance adjustment account established by IC 33-38-5-8.2 one hundred percent (100%) of the judicial insurance adjustment fee collected under IC 33-37-5-25.

(j) The proceeds of the service fee collected under IC 33-37-5-28(b)(1) or IC 33-37-5-28(b)(2) shall be distributed as follows:

(1) The clerk shall distribute one hundred percent (100%) of the service fees collected in a circuit, superior, county, or probate court to the county auditor for deposit in the county general fund.

(2) The clerk shall distribute one hundred percent (100%) of the service fees collected in a city or town court to the city or town fiscal officer for deposit in the city or town general fund.

(k) The proceeds of the garnishee service fee collected under IC 33-37-5-28(b)(3) or IC 33-37-5-28(b)(4) shall be distributed as follows:

(1) The clerk shall distribute one hundred percent (100%) of the garnishee service fees collected in a circuit, superior, county, or probate court to the county auditor for deposit in the county general fund.

(2) The clerk shall distribute one hundred percent (100%) of the



garnishee service fees collected in a city or town court to the city or town fiscal officer for deposit in the city or town general fund.

(l) The clerk of the circuit court shall distribute semiannually to the auditor of state for deposit in the home ownership education account established by IC 5-20-1-27 one hundred percent (100%) of the following:

(1) The mortgage foreclosure counseling and education fees collected under IC 33-37-5-32 (before its expiration on January 1, 2015).

(2) Any civil penalties imposed and collected by a court for a violation of a court order in a foreclosure action under IC 32-30-10.5.

(m) This subsection applies to a county that is not operating under the state's automated judicial system. The clerk of a circuit court shall distribute monthly to the county auditor the following part of the automated record keeping fee (IC 33-37-5-21) not distributed under subsection (a) for deposit in the clerk's record perpetuation fund:

(1) Twenty percent (20%), before July 1, 2013, and after June 30, 2015.

(2) Two dollars (\$2) of each fee collected, after June 30, 2013, and before July 1, 2015.

(n) The clerk of a circuit court shall distribute semiannually to the auditor of state one hundred percent (100%) of the pro bono legal services fees collected before July 1, 2017, under IC 33-37-5-31. The auditor of state shall transfer semiannually the pro bono legal services fees to the Indiana Bar Foundation (or a successor entity) as the entity designated to organize and administer the interest on lawyers trust accounts (IOLTA) program under Rule 1.15 of the Rules of Professional Conduct of the Indiana supreme court. The Indiana Bar Foundation shall:

(1) deposit in an appropriate account and otherwise manage the fees the Indiana Bar Foundation receives under this subsection in the same manner the Indiana Bar Foundation deposits and manages the net earnings the Indiana Bar Foundation receives from IOLTA accounts; and

(2) use the fees the Indiana Bar Foundation receives under this subsection to assist or establish approved pro bono legal services programs.

The handling and expenditure of the pro bono legal services fees received under this section by the Indiana Bar Foundation (or its successor entity) are subject to audit by the state board of accounts. The amounts necessary to make the transfers required by this subsection are



1 appropriated from the state general fund.

2 SECTION 11. [EFFECTIVE UPON PASSAGE] (a) There is  
3 appropriated to the domestic violence prevention and treatment  
4 fund established by IC 5-2-6.7-4:

5 (1) five million dollars (\$5,000,000) for the state fiscal year  
6 beginning July 1, 2015, and ending June 30, 2016; and

7 (2) five million dollars (\$5,000,000) for the state fiscal year  
8 beginning July 1, 2016, and ending June 30, 2017.

9 (b) This SECTION expires July 1, 2017.

10 SECTION 12. [EFFECTIVE UPON PASSAGE] (a) There is  
11 appropriated to the sexual assault victim's assistance account  
12 established within the state general fund by IC 5-2-6-23(b):

13 (1) one million dollars (\$1,000,000) for the state fiscal year  
14 beginning July 1, 2015, and ending June 30, 2016; and

15 (2) one million dollars (\$1,000,000) for the state fiscal year  
16 beginning July 1, 2016, and ending June 30, 2017.

17 (b) The full amount of the appropriation under this section shall  
18 be distributed to rape crisis centers in Indiana without deduction  
19 of personal services or other operating expenses from a state  
20 agency.

21 (c) This SECTION expires July 1, 2017.

22 SECTION 13. An emergency is declared for this act.

